

**NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)
CATEGORICAL EXCLUSION (CX) COMPLIANCE AND DECISION RECORD
U.S. Department of Interior (DOI)
Bureau of Land Management (BLM)**

NEPA Document Number: DOI-BLM-AZ-P010-2012-023-CX

A. Background

BLM Office: **Hassayampa Field Office (AZP010)**

Lease/Serial/Case File No.: **AZA-9282**

Proposed Action Title/Type: **Maricopa County Flood Control (MCFC) Flowage Easement
Right-of-Way (ROW) Amendment and Renewal**

Location of Proposed Action: **Gila & Salt River Meridian, Maricopa County, Arizona**
T. 2 N., R. 1 W.,
section 25, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$;
containing 5.0 acres, more or less.

Current location of the ROW: **Gila & Salt River Meridian, Maricopa County, Arizona**
T. 2 N., R. 1 W.,
section 25, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$;
NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$;
W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$;
containing 20.00 acres, more or less.

Description of Proposed Action: The proposed action is to amend and renew Maricopa County Flood Control (herein referred to as MCFC) existing flowage easement ROW (AZA-9282). Located across a small, isolated parcel of BLM land in the middle of a highly developed town (Avondale), the easement crosses the Agua Fria River channel. The ROW was first issued, on May 10, 1977, and allows MCFC the right to operate, maintain, renew and terminate a flowage easement.

A road/bridge (AZA-16814) is located across the most northern portion of the flowage easement and is authorized to Maricopa County Department of Transportation (MCDOT). An amendment to AZA-16814, dated September 15, 1992, inadvertently added lands (S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) which should have instead been added to this flowage easement (AZA-9282). Specifically, environmental assessment (EA) number AZA-024-92-031, dated August 31, 1992, lists the Flood Control District of Maricopa County (MCFC) as the applicant and analyzes the area requested in this categorical exclusion (CX) however, it mistakenly lists serial number AZA-16814. The proposed amendment would be the first step in correcting this error.

Access to the flowage easement site exists via Indian School Road. Indian School Road extends to the east and west, of road/bridge ROW AZA-16814, onto state land. The amendment portion of the proposed action would add the lands originally intended for the flowage easement while the renewal would only allow MCFC to continue that which is authorized in their original grant. The applicant continues to be in compliance with this ROW. If authorized, the ROW would be issued for an additional 30 years with the right to renew.

B. Land Use Plan Conformance

Land Use Plan Name: **Bradshaw-Harquahala Record of Decision and Approved Resource Management Plan**

Date Approved/Amended: **April 2010**

☐ The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s):

☒ The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):

This action has been reviewed for conformance, with the Bradshaw-Harquahala Resource Management Plan (RMP) with respect to the Code of Federal Regulations (CFR) (43 CFR 1610.5) and BLM Manual 1601.04 C.2. It has been determined that the proposed action does comply with the objectives, terms, and conditions of the RMP. Specifically, this type of action is provided for in Lands and Realty Management, Land Use Authorizations LR-24 which states,

“Continue to issue land use authorizations (right-of-way, leases, permits, easements) on a case-by-case basis and in accordance with resource management prescriptions in this land use plan.”

C. Compliance with NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA), in accordance with the list of DOI-wide categorical exclusions located in 516 DM 11.5 or 516 DM Chapter 2, Appendix 1.

The Departmental Manual [516 DM 2.3 (A)(3) and 516 DM, Appendix 2] requires before any action described in the list of categorical exclusions is used, the exceptions must be reviewed for applicability and, in each case, must result in no extraordinary circumstances (see Attachment 1).

In this case, the use of a CX is appropriate because there are no extraordinary circumstances which may have significant effects on the environment. In other words, the proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM Chapter 2 or 516 DM 11.5 apply.

The first action was originally reviewed under environmental analysis (EA) number AZ-020-7-15, approved April 11, 1977. The amendment portion of the proposed action was inadvertently assigned to AZA-16814 under EA number AZ-024-92-031, approved August 31, 1992. Consideration of all aspects of this document was taken and no potential for significant impacts were found.

Justification for the use of a CX, for the renewal portion of this action, resides in 516 DM Chapter 6 Appendix 5 Section 5.4 (E)(9) as well as BLM NEPA Handbook (H-1790-1) Appendix 4, (E)(9) which states,

“Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.”

In addition, the basis for a CX (with regards to the amendment portion of the proposed action) is located in BLM NEPA Handbook H-1790-1; Appendix 4 BLM Categorical Exclusions (E)(12) which states,

“Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.”

D. Terms and Conditions

Mitigating measures were incorporated in the original grant as terms and conditions. Additional mitigating measures have been added with regards to the amendment however, the terms and conditions of the original grant will continue to apply. A list of all mitigating measures are located in the attached document (Appendix A) entitled Mitigating Measures.

E. Signature

Authorizing Official: _____/S/_____ Date: __07/31/2012_____
(Signature)

Name: D. Remington Hawes

Title: Hassayampa Field Manager

Contact Person

For additional information concerning this CX, contact Hillary Conner, Realty Specialist, at 623-580-5649, BLM, Hassayampa Field Office, 21605 N. 7th Avenue, Phoenix, Arizona 85027.

Note: A separate decision document must be prepared for the action covered by the CX. See Attachment 2.

Attachment 1

EXTRAORDINARY CIRCUMSTANCES REVIEW AND CHECKLIST		
<p><i>IMPORTANT: Appropriate staff should review the circumstances listed below, and comment for concurrence. Rationale supporting the concurrence should be included where appropriate.</i></p>		
EXTRAORDINARY CIRCUMSTANCES	YES/NO & RATIONALE (If Appropriate)	STAFF
Does the proposed action...		
1. Have significant impacts on public health and safety?	N	HC
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas?	N	HC
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	N	HC
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	N	HC, CC
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	N	HC
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	N	HC
7. Have significant impacts on properties listed or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office?	N	CS
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?	N	HC, CC
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	N	HC
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?	N	HC
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007)?	N	HC
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)?	N	HC

HC = Hillary Conner

CC = Codey Carter

Approval and Decision

Attachment 2

Compliance and assignment of responsibility: Lands & Realty Department

Monitoring and assignment of responsibility: Lands & Realty Department

Review: *We have determined that the proposal is in accordance with the categorical exclusion criteria and that it would not involve any significant environmental effects. Therefore, it is categorically excluded from further environmental review.*

Prepared by: _____/S/_____ **Date:** __07/25/2012____

Hillary Conner
Project Lead

Reviewed by: _____/S/_____ **Date:** __07/30/2012____

Leah Baker
Planning & Environmental Coordinator

Reviewed by: _____/S/_____ **Date:** __07/31/2012____

D. Remington Hawes
Manager

Project Description:

Paste Project Description here

Decision: Based on a review of the project described above and field office staff recommendations, I have determined that the project is in conformance with the land use plan and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed, with the following mitigating measures listed in Appendix A.

Approved By: _____/S/_____ **Date:** _07/31/2012____

Insert Name of Manager

APPENDIX A

Mitigating Measures

1. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
2. Upon grant termination by the authorized officer (AO), all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the AO.
3. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the AO at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way (ROW) or permit granted herein may be reviewed at any time deemed necessary by the AO.
4. The stipulations, plans, maps, or designs set forth in Exhibits A, B, C and D, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
5. Failure of the holder to comply with applicable law or any provision of this ROW grant or permit shall constitute grounds for suspension or termination thereof.
6. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
7. In the event that the public land underlying the ROW encompassed in this grant or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the ROW, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part (2800)(2880), including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the ROW, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW holder.
8. The ROW reserves to the Secretary of the Interior, or lawful delegates, the right to grant additional ROW, leases, or easements for compatible uses over, under, within or adjacent to the lands involved in this grant.

9. The holder shall confine all vehicular traffic to the authorized limits of the ROW, except as provided below, or unless otherwise authorized in writing by the AO.
10. The holder shall not initiate any additional construction, maintenance, or other surface disturbing activities on the ROW, other than what is authorized, without prior written authorization from the AO.
11. This ROW may be renewed. If renewed, the ROW will be subject to regulations existing at the time of renewal and such other terms and conditions deemed necessary to protect the public interest.